



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-970]

Multilayered Wood Flooring from the People's Republic of China: Notice of Court Decision Not in Harmony with Final Results of Antidumping Duty Administrative Review; Notice of Amended Final Results

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On February 7, 2022, the U.S. Court of International Trade (CIT or Court) issued its final judgment in *Fine Furniture (Shanghai) Limited, et al. v. United States*, Consol. Court No. 14-00135, sustaining the Department of Commerce (Commerce)'s remand redetermination pertaining to the 2011-2012 antidumping duty (AD) administrative review of multilayered hardwood flooring (wood flooring) from the People's Republic of China (China) covering the period May 26, 2011, through November 30, 2012. Commerce is notifying the public that the CIT's final judgment in this litigation is not in harmony with the final of the 2011-2012 AD administrative review of wood flooring from China, and that Commerce is amending the final results of that review with respect to the dumping margin assigned to certain separate rate companies.

DATES: Applicable February 17, 2022.

FOR FURTHER INFORMATION CONTACT: Drew Jackson, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482-4406.

SUPPLEMENTARY INFORMATION:

[Background](#)

On May 9, 2014, Commerce published the final results of the first administrative review of wood flooring from China.¹ After correcting certain ministerial errors contained in the *Final Results*, on June 20, 2014, Commerce published the *Amended Final Results*, in which Commerce amended the final weighted-average dumping margins for Fine Furniture (Shanghai) Limited (Fine Furniture) and certain separate rate companies.²

Fine Furniture and certain separate rate companies (collectively, plaintiffs) challenged Commerce's *Final Results*. In its first remand opinion, the CIT held unlawful the calculation of a deduction Commerce made for Chinese irrecoverable value-added tax (VAT).³ Furthermore, the CIT held two decisions Commerce made in determining the normal value of Fine Furnitures's subject merchandise were not supported by substantial evidence: (1) Commerce's choice of financial statements for use in calculating surrogate financial ratios; and (2) the calculation of the surrogate value for electricity.⁴

Commerce filed the first remand redetermination on August 28, 2017, which included a recalculation of the weighted-average dumping margin of 0.73 percent for Fine Furniture. Based on this margin, Commerce assigned a rate of 0.73 percent as the revised separate rate.⁵ The CIT sustained Commerce's recalculation of the deduction for VAT and its decisions on the choice of financial statements; however, the CIT ordered Commerce to reconsider on remand its selection of the surrogate value for Fine Furniture's electricity usage.⁶

Following the CIT's opinion and order in *Fine Furniture III*, the court stayed the case pending the outcome of *Changzhou Hawd*.⁷ On February 2, 2021, following the U.S. Court of Appeals of the Federal Circuit (Federal Circuit or CAFC) final opinion in *Changzhou Hawd* that

¹ See *Multilayered Wood Flooring from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012*, 79 FR 26712 (May 9, 2014) (*Final Results*), and accompanying Issues and Decision Memorandum.

² See *Multilayered Wood Flooring from the People's Republic of China: Amended Final Results of Antidumping Duty Administrative Review; 2011–2012*, 79 FR 35314 (June 20, 2014) (*Amended Final Results*).

³ See *Fine Furniture (Shanghai) Ltd. v. United States*, 182 F. Supp. 3d 1350 (CIT 2016) (*Fine Furniture I*).

⁴ *Id.*

⁵ See *Final Results of Redetermination Pursuant to Court Order* (August 28, 2017), ECF No. 337-1, 338-1.

⁶ See *Fine Furniture (Shanghai) Ltd. v. United States*, 321 F. Supp. 3d 1282 (CIT 2018) (*Fine Furniture III*).

⁷ See *Changzhou Hawd Flooring Co., Ltd. v. United States*, 947 F.3d 781 (Fed. Cir. 2020) (*Changzhou Hawd*).

held that Fine Furniture was excluded from the *Order*,⁸ the CIT lifted the stay and granted Commerce’s voluntary remand to recalculate an antidumping duty rate applicable to the separate rate respondents, given Fine Furniture’s exclusion from the order.⁹

In its final remand redetermination, issued in July 2021, Commerce assigned a new separate rate of 0.00 percent applicable only to those companies that are party to the litigation and that have an injunction in place.¹⁰ The CIT sustained Commerce’s final remand redetermination.¹¹

Timken Notice

In its decision in *Timken*,¹² as clarified by *Diamond Sawblades*,¹³ the Federal Circuit held that, pursuant to section 516A(c) and (e) of the Tariff Act of 1930, as amended (the Act), Commerce must publish a notice of a court decision that is not “in harmony” with a Commerce determination and must suspend liquidation of entries pending a “conclusive” court decision. The CIT’s February 7, 2022, judgment constitutes a final court decision that is not in harmony with Commerce’s *Final Results*. Thus, this notice is published in fulfillment of the publication requirements of *Timken*.

Amended Final Results

Because there is now a final court judgment, Commerce is amending its *Final Results* with respect to the dumping margin assigned to entries of wood flooring produced and/or exported from China, which were entered or withdrawn from warehouse, for consumption during the period May 26, 2011, through November 30, 2012, for the separate rate companies listed in

⁸ See *Changzhou Hawd*, 947 F.3d at 793-94.

⁹ See *Fine Furniture (Shanghai) Limited, et al. v. United States*, Consol. Court No. 14-00135, Slip Op. 21-69 (June 2, 2021) (*Fine Furniture IV*).

¹⁰ See Final Results of Remand Redetermination, *Fine Furniture (Shanghai) Limited, et al. v. United States*, Consol. Court No. 14-00135, Slip Op. 21-69 (CIT June 2, 2021) (July 12, 2021).

¹¹ See *Fine Furniture (Shanghai) Limited, et al. v. United States*, Consol. Court No. 14-00135, Slip Op. 22-9 (CIT February 7, 2022).

¹² See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

¹³ See *Diamond Sawblades Manufacturers Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

the appendix.¹⁴ The amended weighted-average dumping margin for the companies that participated in the litigation and have injunctions in place is 0.00 percent.¹⁵

Cash Deposit Requirements

Because the companies listed in the appendix have a superseding cash deposit rate, *i.e.*, there have been final results published in subsequent administrative reviews for the companies listed above, we will not issue revised cash deposit instructions to U.S. Customs and Border Protection (CBP). This notice will not affect the current cash deposit rates for those exporters/producers.

Liquidation of Suspended Entries

At this time, Commerce remains enjoined by CIT order from liquidating entries of subject merchandise that were exported by any of the companies listed above and that were entered into the United States, or withdrawn from warehouse, for consumption during the period May 26, 2011, through November 30, 2012. These entries will remain enjoined pursuant to the terms of the injunction during the pendency of any appeals process.

In the event the CIT's ruling is not appealed, or, if appealed, upheld by a final and conclusive court decision, Commerce intends to instruct CBP to assess antidumping duties on unliquidated entries of subject merchandise exported by the companies listed above in accordance with 19 CFR 351.212(b). We will instruct CBP to assess antidumping duties on all appropriate entries covered by the review when the importer-specific *ad valorem* assessment rate is not zero or *de minimis*. Where an importer-specific *ad valorem* assessment rate is zero or *de minimis*,¹⁶ we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

¹⁴ Hangzhou Zhengtian Industrial Co., Ltd. was not subject to the first review final results. *See Final Results*. Therefore, this company's entries would have liquidated pursuant to prior liquidation instructions. In addition, Dalian Huilong Wooden Products Co., Ltd., Dunhua City Dexin Wood Industry Co., Ltd., Karly Wood Product Limited, and Kunshan Yingyi-Nature Wood Industry Co., Ltd. have no outstanding injunction for this period of review. Therefore, in accordance with our final remand redetermination and the Court's opinion, we are not assigning these companies the revised rate.

¹⁵ *Id.*; *see also* Appendix.

¹⁶ *See* 19 CFR 351.106(c)(2).

Notification to Interested Parties

This notice is issued and published in accordance with sections 516A(c) and (e), 751(a)(1), and 777(i)(1) of the Act.

Dated: February 17, 2022.

Lisa W. Wang,
Assistant Secretary for Enforcement and Compliance.

Appendix

Separate Rate Companies¹⁷

1. Dalian Kemian Wood Industry Co., Ltd.
2. Dongtai Fuan Universal Dynamics, LLC
3. GTP International Limited
4. Guangzhou Panyu Kangda Board Co., Ltd.
5. Guangzhou Panyu Southern Star Co., Ltd.
6. Jiangsu Senmao Bamboo and Wood Industry Co., Ltd.
7. Jiangsu Simba Flooring Co., Ltd.
8. Jiashan HuiJiaLe Decoration Material Co., Ltd.
9. Kemian Wood Industry (Kunshan) Co., Ltd.
10. Puli Trading Ltd.
11. Shenzhenshi Huanwei Woods Co., Ltd.
12. Suzhou Dongda Wood Co., Ltd.
13. Zhejiang Fudeli Timber Industry Co., Ltd.
14. Shanghai Lizhong Wood Products Co., Ltd. / The Lizhong Wood Industry Limited Company of Shanghai
15. Metropolitan Hardwood Floors, Inc.
16. Baishan Huafeng Wood Product Co., Ltd.
17. Dalian Dajen Wood Co., Ltd.
18. Dalian Penghong Floor Products Co., Ltd.
19. Dasso Industrial Group Co., Ltd.
20. Dunhua City Hongyuan Wood Industry Co., Ltd.
21. Dunhua City Wanrong Wood Industry Co., Ltd.
22. Fujian Wuyishan Werner Green Industry Co., Ltd.
23. Fusong Jinlong Wooden Group Co., Ltd.
24. Hangzhou Hanje Tec Co., Ltd.
25. Hunchun Forest Wolf Wooden Industry Co., Ltd.
26. Huzhou Chenghang Wood Co., Ltd.
27. Huzhou Fulinmen Imp. & Exp. Co., Ltd.
28. Jiafeng Wood (Suzhou) Co., Ltd.
29. Jilin Forest Industry Jinqiao Flooring Group Co., Ltd.
30. Mudanjiang Bosen Wood Industry Co., Ltd.
31. Nakahiro Jyou Sei Furniture (Dalian) Co., Ltd.
32. Shanghai Eswell Timber Co., Ltd.
33. Shanghai Shenlin Corporation
34. Xuzhou Shenghe Wood Co., Ltd.
35. Zhejiang Fuma Warm Technology Co., Ltd.
36. Zhejiang Shiyong Timber Co., Ltd.

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¹⁷ As noted above, Hangzhou Zhengtian Industrial Co., Ltd. was not subject to the first review final results. *See Final Results*. Therefore, this company's entries would have liquidated pursuant to prior liquidation instructions. In addition, Dalian Huilong Wooden Products Co., Ltd., Dunhua City Dexin Wood Industry Co., Ltd., Karly Wood Product Limited, and Kunshan Yingyi-Nature Wood Industry Co., Ltd. have no outstanding injunction for this period of review. Therefore, in accordance with our final remand redetermination and the Court's opinion, we are not providing these companies with the revised rate.